An In- Depth Analysis of

INDIA BUDGET 2020

CNK & Associates LLP

Foreword

These are extraordinary times requiring extraordinary responses. The nominal GDP growth is the lowest in four decades, retail inflation is at a 5 year high, private spending is the lowest in 7 years and unemployment is rising. The stage was perfectly set for some dream changes. Alas, the Budget, at best was incremental and certainly not transformational.

The Budget enumerated various schemes and programs - described by the FM as "bouquet of flowers" dedicated to provide "ease of living" to all citizen. However, despite all the good intentions and rhetorics, the Budget lacked the big bang fiscal stimulus measures.

To cope with the economic slowdown, the FM (rightly) allowed the fiscal deficit to hit the maximum permitted level of 3.8%. It is indeed heartening that there is a conscious effort towards transparency and the Budget numbers look generally reliable. The upfront admission that the nominal growth rate in 2020-21 will be 10% clearly acknowledges that the road ahead is not easy.

The new optional tax regime offers lower tax rates for individuals and HUFs forgoing tax exemptions and deductions. However, this is unlikely to make any significant impact and an approach of providing a menu of choices to the tax payer is likely to add chaos to the already confusing tax law.

Charitable entities have become the favourite punching bags of the Government and this Budget is going to further increase their compliance burden.

The direct tax dispute resolution scheme (Vivad se Vishwas scheme) is proposed to be introduced following the resounding success of a similar scheme for indirect taxes last year. However, considering the menace of "high pitched" demand and fundamental nature of direct tax disputes, it is unlikely that this scheme will receive an enthusiastic response from the tax payers.

Abolishing DDT is a welcome step and something that the industry had always sought. Similarly, the move of making the conditions for maintaining non-resident status stricter is well justified.

On the indirect tax front, the FM has raised import tariffs to protect domestic industry. This effectively reverses the earlier policy of allowing easier imports that could assist the "Make in India" project by integrating such imports into the global value chain.

The Budget seems to indicate an unwillingness to recognise the root cause for the economic slowdown. Crisis situations are great opportunities for some transformational changes; unfortunately, the Government has let a good crisis go to waste.

In all fairness the Budget cannot be the panacea for all the economic woes. Surely, the Government can still bring in policy and structural changes to revive the economy. However, that needs to begin now and then sustained over a prolonged period of time. Let us hope that the Government will do exactly that without losing focus or endurance - as the FM did while delivering one of the longest budget speech.

Every Budget has its intricacies and team CNK is happy to present its Budget analysis demystifying the complexities.

Happy Reading!!!

Glossary

Abbreviation	Description
%	Percentage
Act	Income tax Act, 1961
AE	Associated Enterprise
AMT	Alternative Minimum Tax
AO	Assessing Officer
AOP	Association Of Persons
APA	Advance Pricing Agreement
AY	Assessment Year
BCD	Basic Customs Duty
BEPS	Base Erosion and Profit Shifting
BOI	Body of Individuals
CBDT	Central Board of Direct Taxes
CGST	Central Goods and Service Tax
CIT	Commissioner of Income-tax
CIT(A)	Commissioner of Income-tax (Appeals)
CTA	Custom Tariff Act, 1975
CTT	Commodity Transaction Tax
DDT	Dividend Distribution Tax
DTAA	Double Tax Avoidance Agreement
DRP	Dispute Resolution Panel
EBITDA	Earnings Before Interest, Tax, Depreciation and Amortization
ETR	Effective Tax Rate
FII	Foreign Institutional Investor

Abbreviation	Description
FM	Finance Minister
FPI	Foreign Portfolio Investor
FTS	Fees for Technical Services
FY	Financial Year
GAAR	General Anti Avoidance Rules
GDP	Gross Domestic Product
GST	Goods and Service Tax
HC	Health Cess
HNI	High Net-worth Individual
HUF	Hindu Undivided Family
IFSC	International Financial Services Centre
INR	Indian Rupees/ Rs.
InvIT	Infrastructure Investment Trust
IP	Internet Protocol
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
LLP	Limited Liability Partnership
LRS	Liberalized Remittance Scheme
MAT	Minimum Alternate Tax
MF	Mutual Fund
MLI	Multilateral Instrument
NCCD	National Calamity Contingent Duty
NPS	National Pension Scheme
NRI	Non Resident Indian
OECD	Organization for Economic Co-operation and Development

Abbreviation	Description
PAN	Permanent Account Number
PE	Permanent Establishment
PIO	Person of Indian Origin
QFI	Qualified Foreign Investor
RBI	Reserve Bank of India
RDB	Rupee Denominated Bonds
REIT	Real Estate Investment Trust
SC	Supreme Court
SEBI	Security and Exchange Board of India
SEP	Significant Economic Presence
SEZ	Special Economic Zone
SHR	Safe Harbour Rules
SWC	Social Welfare Cess
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TLAA	Taxation Law Amendment Act, 2019
TRC	Tax Residency Certificate
TRQ	Tariff Rate Quota
UAE	United Arab Emirates
UTI	Unit Trust of India
w.e.f.	with effect from
w.r.e.f.	with retrospective effect from

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Note:

Unless otherwise stated the amendments referred to in this e-publication are effective from AY 2021-22 onwards.

Unless otherwise stated, all non-tariff amendments (except retrospective amendments) relating to Indirect Tax shall become effective from a Notified Date, post enactment of the Finance Bill. All tariff amendments shall be effective from the mid-night of 1st February, 2020.

Income Tax Rates for AY 2021-22

The tax rates, surcharge and education cess applicable to all class of assessees remain unchanged. However, in case of Individuals, HUFs and Co-operative Societies, an option to pay tax at concessional rate is provided by inserting sections 115BAC and 115BAD, if certain exemptions and deductions are not claimed. The rates of tax as applicable for AY 2021-22 are as under:

A. For Individuals, HUF, AOP, BOI and Artificial Juridical Person

Individuals below 60 years of age and all Non-Resident Individuals	Resident Individual aged 60 years or more but less than 80 years (Senior Citizen)	Resident Individual of age 80 years and above (Very Senior Citizen)	Rate
Up to INR 250,000	Up to INR 300,000	Up to INR 500,000	Nil
INR 250,001 to INR 500,000	INR 300,001 to INR 500,000	-	5%
INR 500,001 to INR 1,000,000	INR 500,001 to INR 1,000,000	INR 500,001 to INR 1,000,000	20%
Above INR 1,000,000	Above INR 1,000,000	Above INR 1,000,000	30%

Individuals having taxable income up to INR 5 lakhs are eligible for tax rebate under section 87A up to INR 12,500

Rate of surcharge for Individuals, HUF, AOP and BOI.

Nature of Income	Total Income				
	Up to INR 50 lakhs	More than INR 50 lakhs but up to INR 1 crore	More than INR 1 crore but up to INR 2 crore	More than INR 2 crore but up to INR 5 crore	More than INR 5 crore
Short term capital gains on listed shares/ specified units attracting STT	NIL	10%	15%	15%	15%
Long term capital gains on listed shares/ specified units attracting STT	NIL	10%	15%	15%	15%
Any other income	NIL	10%	15%	25%	37%

Health & Education Cess at the rate of 4% shall be applicable on the aggregate of tax and surcharge.

B. For Firms (including LLP)

Income	Rate	Surcharge	Health & Education Cess	ETR
Up to INR 1 crore	30%	-	4%	31.20%
Above INR 1 crore	30%	12%	4%	34.94%

C. Co-operative Societies

Income	Rate	Surcharge	Health & Education Cess	ETR
Upto INR 10,000	10%	-	4%	10.40%
INR 10,001 to INR 20,000	20%	-	4%	20.80%
INR 20,001 to INR 1 Crore	30%	-	4%	31.20%
Above INR 1 Crore	30%	12%	4%	34.94%

D. **For Companies:**

Particulars		Domestic company (Having turnover below INR 400 crore in FY 2018-19)	Domestic company (Having turnover above INR 400 crore in FY 2018-19	Domestic company opting for section 115BAA	Domestic company opting for section 115BAB	Foreign Company
Total Income up to INR 1 crore	Basic Tax Rate	25%	30%	22%	15%	40%
	Rate of Surcharge	Nil	Nil	10%	10%	Nil
	Health and education cess	4%	4%	4%	4%	4%
	ETR	**26%**	**31.20%**	**25.17%**	**17.16%**	**41.60%**
Total Income above INR 1 crore and up to INR 10 crore	Basic Tax Rate	25%	30%	22%	15%	40%
	Rate of Surcharge	7%	7%	10%	10%	2%
	Health and education cess	4%	4%	4%	4%	4%
	ETR	**27.82%**	**33.38%**	**25.17%**	**17.16%**	**42.43%**
Total Income Above INR 10 crore	Basic Tax Rate	25%	30%	22%	15%	40%
	Rate of surcharge	12%	12%	10%	10%	5%
	Health and education cess	4%	4%	4%	4%	4%
	ETR	**29.12%**	**34.94%**	**25.17%**	**17.16%**	**43.68%**

E. MAT

Type of Companies	Domestic Company			Foreign Company		
	Below INR 1 crore	INR 1 crore to INR 10 crore	Above INR 10 crore	Below INR 1 crore	INR 1 crore to INR 10 crore	Above INR 10 crore
Rate of Tax	15%	15%	15%	15%	15%	15%
Surcharge	-	7%	12%	-	2%	5%
Health & Education Cess	4%	4%	4%	4%	4%	4%
ETR	**15.60%**	**16.69%**	**17.47%**	**15.60%**	**15.91%**	**16.38%**

F. AMT

Particulars	Below INR 1 crore	Above INR 1 crore
Rate of Tax	18.50%	18.50%
Surcharge	-	12%
Health & Education Cess	4%	4%
ETR	**19.24%**	**21.55%**

Personal & Non-Corporate Taxation

Concessional tax rates for individuals and HUFs – New regime under section 115BAC

From AY 2021-22, the option provided under the new regime are as under:

Total Income	Rate of Tax
Upto INR 250,000	NIL
INR 250,001 to INR 500,000	5%
INR 500,001 to INR 750,000	10%
INR 750,001 to INR 1,000,000	15%
INR 1,000,001 to INR 1,250,000	20%
INR 1,250,001 to INR 1,500,000	25%
Above INR 1,500,000	30%

The rate of surcharge and education cess shall remain the same.

To avail the above option, the following conditions with respect to computation of income have to be satisfied:

1. Total income of the assessee shall be computed without giving effect to the following-
   A. Deductions and Exemptions:
      - From Salary Income - Standard Deduction and Profession tax, Leave Travel Concession, House Rent Allowance, Special Allowances granted to meet expenses in performance of duties, daily allowance or constituency allowance given to MPs and MLAs.
      - On account of clubbing of income of minor children.
      - From House Property Income – Interest on borrowings for Self-occupied property.
      - From Business Income - Additional Depreciation, Deduction for newly established units in SEZ [section 10AA], various investment linked incentives, payments for scientific research/ conservation of natural resources.
      - From Income from Other Sources - Deduction from Family Pension.
      - Deductions covered under Chapter VI-A viz. 80C, 80D, 80G, 80TTA, 80TTB, etc. other than contribution by employer to notified pension scheme under section 80CCD(2) and deduction for new employee under section 80JJAA.

   B. Set off of Losses
      - Brought forward losses from earlier years pertaining to the above deductions will not be allowed to be set off.
      - Loss under the head 'Income from House Property' during the year shall not be allowed to be set off under any other head of income or carry forward.

   C. AMT under section 115JC shall not be applicable.
2. Assessees having **<u>no business income</u>** shall need to exercise this option at the time of filing of return of income for each AY.

3. Assessees having business income shall need to exercise the option on or before the due date of filing of the return in the prescribed manner. Such option once exercised shall apply to subsequent AY as well. The option can be withdrawn only once subsequent to the AY in which it is exercised. Once withdrawn, the said option cannot be re-exercised unless the assessee ceases to have business income.

CNK Comments: The threshold exemption limit for senior citizen/very senior citizen assessees will be restricted to INR 2.5 lakhs under this option as against INR 3 lakhs/INR 5 lakhs respectively under the existing tax rates.

One would need to evaluate the deductions and exemptions to be foregone if the new regime taxation is to be opted.

Incentives to resident co-operative societies – New regime under section 115BAD

Co-operative societies resident in India have an option to pay tax as per the newly inserted section 115BAD at the rate of 22% along with surcharge @ 10% and Health & Education Cess @ 4% having effective tax rate at 25.17%

To avail the above option, the following conditions with respect to computation of income have to be satisfied:

1. Total income of the assessee shall be computed without giving effect to-
   A. Deductions and Exemptions:
      - From Business Income - Additional Depreciation, Deduction for newly established units in SEZ [section 10AA], etc.
      - Any other deductions covered under Chapter VI-A including deduction under section 80P. However, the deductions in respect of employment of new employees [section 80JJAA] and deduction in respect of certain off-shore banking units and International Financial Services Centre (IFSC) under section 80LA shall be allowed.

   B. Set off of Losses
      - Brought forward losses from earlier years pertaining to the above deductions and exemptions will not be allowed to be set off.

   C. AMT under section 115JC shall not be applicable.
2. The option has to be exercised on or before the due date of filing of the return of income in the manner as may be prescribed. Such option once exercised shall apply to subsequent AYs as well and cannot be withdrawn.

Change in tax residency criteria for certain individuals

Residential status in India:
Presently, an Individual is said to be a resident of India, if:

a. He is in India in the financial year for 182 days or more; ***or***
b. He is in India for 60 days or more in the financial year and his stay in India in the preceding 4 years was 365 days or more.

However, an Indian citizen or a person of Indian origin who is outside India, visiting India ("Visiting Indian/PIO") is treated as Indian resident only if he is in India for 182 days or more in that financial year i.e. the condition of 60 days mentioned in (b) above does not apply to such individuals.

Now, the time limit available to the Visiting Indians/PIOs has been reduced from 182 days to 120 days in that financial year.

CNK Comments: This amendment seeks to curb cases of Visiting Indian/PIO who despite carrying-out substantial economic activities from India, manage their period of stay in India in a manner that they are considered non-resident in India and are not liable to offer their global income in India to tax.

Status of person "not ordinarily resident" in India:
Presently, an individual is considered "not ordinarily resident" in India in a financial year, if:

a. He has been a non-resident in India in 9 out of the 10 preceding years; or
b. He has been in India for a period of 729 days or less during 7 years preceding years.

For determining the status of Hindu Undivided Family (HUF), similar criteria is provided for the manager of the HUF.

Now, an individual or HUF will be considered "not ordinarily resident" in India if such individual / manager of HUF is non-resident in India in 7 out of the 10 preceding years instead of the existing 9 out of 10 years. The other condition mentioned in clause (b) above would remain unchanged.

CNK Comments: This amendment seeks to relax conditions for being treated as "not ordinarily resident" in India, which till now were unduly stringent.

Stateless Indian citizen
Presently, an Indian citizen is considered tax resident in India solely based on the number of days of his stay in India, subject to conditions.

Now, section 6 has been amended by introducing clause (1A) to provide that an Indian citizen who is not liable to tax in any other country or territory (by reason of his domicile or residence or any other criteria of similar nature) shall be deemed to be resident in India in the said financial year, irrespective of his period of stay in India.

CNK Comments: This amendment seeks to address cases where HNIs arrange their affairs in a manner that they are not liable to pay tax in any country or jurisdiction during a financial year i.e. they are stateless. Such avenues for double non-taxation are being systematically closed through various global developments and accordingly, India has taken a step in this regard by iterating its right to tax the global income of such stateless Indian citizens. The government has subsequently issued a press release stating that income earned outside India by such Indian citizen shall not be taxed in India unless it is derived from an Indian business or profession. However, it would be desirable that the exact meaning of the term "not liable to tax" in the other country / territory and the situations it seeks to specially cover are clarified before the provision takes effect to avoid litigation on this issue. In this regard, it would be important to note that the Supreme Court in the case of Azadi Bachao Andolan (*263 ITR 706)* has held that the term 'liable to tax' is not the same as 'is actually taxed'. The OECD Model Tax Convention also provides that a person does not have to be actually paying tax to be "liable to tax".

Upper limit for tax exemption specified for overall contribution to NPS, superannuation fund and recognised provident fund by employer

Presently, the employers' contribution to recognised provident fund up to 12% of salary, employer's contribution to superannuation fund up to INR 1.5 lakhs and employer's contribution to NPS to the extent of 14% of salary by Central government employer and 10% in case of any other employer, is not taxable as perquisite in the hands of employee.

The amendment provides for an upper limit of INR 7.5 lakhs in aggregate up to which the above contribution will not be treated as perquisite in the hands of the employee. Any overall contribution exceeding INR 7.5 lakhs would be taxable as perquisite in the hands of the employee.

Any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year relatable to the overall contribution exceeding INR 7.5 lakhs would be taxable in the hands of the employee.

CNK Comments: This would result in an additional compliance burden on the employer to deduct tax in such cases.

Extending time limit for sanctioning of loan for affordable housing

Presently, an individual is eligible for deduction of interest upto INR 1.5 lakhs under section 80EEA on housing loan taken from any financial institution for acquisition of affordable residential house property, provided that the prescribed conditions are satisfied. One such condition is that the loan should be sanctioned between 1st April 2019 and 31st March 2020.

Now, the period of sanctioning of the loan by the financial institution has been extended by one more year i.e. upto 31st March 2021.

CNK Comments: This amendment has been introduced in order to continue promoting purchase of affordable housing. However, an individual assessee opting to pay tax under the new optional regime under section 115BAC will not be eligible to claim deduction under section 80EEA.

Withholding Tax provisions for ESOP's given by Start-ups:

Stock options is one of the popular methods by which Start-Ups compensate their employees.

The ESOP's are presently taxed as perquisites to the employee, in the previous year in which they are allotted, on the basis of their fair market value on the exercise date as per the valuation rules for perquisites.

It is proposed to amend section 192 (pertaining to TDS provisions for salary payments) by inserting sub-section (1C) to provide that the employer being eligible start-up is required to deduct or pay tax, as the case may be, on the taxable component of such perquisite within a period of fourteen days:

i. after 48 months from the end of relevant AY;

ii. from date of sale of such specified security by assesse; or

iii. date of the assessee ceasing to be the employee

whichever is earliest, on the basis of the rates in force for the financial year in which the said specified security or sweat equity share is allotted or transferred.

The tax liability is determined in the year of allotment of shares on exercise of option and a demand would be raised against the employee for that year, which would not be payable by the employee until the expiry of 14 days from the earliest of the above three periods. In case the employer fails to deduct the TDS the employee would be liable to pay the tax on the perquisite. This provision applies only to employees of eligible start-ups which are eligible for deduction under section 80IAC. Similar amendments have been made to Section 191, wherein if the employer does not deduct TDS, the employee has to pay the tax within a period of 14 days from the earliest of the above three periods.

CNK Comments: There will be a demand raised in the name of the employee once tax on such perquisite becomes payable, even though the payment of tax is deferred and the employer is under an obligation to withhold tax. Practical implementation of related issues in the tax administration systems may pose a challenge and care should be taken by the tax authorities that past or future refunds are not adjusted against this demand, which is not payable. This position needs to be clarified to avoid hardship.

Corporate Taxation

DDT abolished – consequences thereof

Presently, domestic companies and mutual funds (MFs) are required to pay tax on distribution of income at the prescribed rates under section 115-O and section 115-R respectively. Since tax is paid by the company and MF on such distributed income, the same is exempt in the hands of the recipient under section 10(34) (subject to taxation of high dividend earners under section 115BBDA) and section 10(35) respectively.

Now, the system of paying tax by the companies and MFs on distribution of such income is done away with and such income will now be taxed in the hands of the investors at the tax rates applicable to them.

Consequential changes arising due to this amendment are as under.

Section	Existing provision	Proposed provision
IMPACT ON DOMESTIC COMPANIES AND THEIR SHAREHOLDERS		
115-O (DDT on companies)	Domestic company to pay DDT on dividends declared, distributed or paid on or after 1st April, 2003	The section will not be applicable for dividends declared, distributed or paid (whichever earlier) on or after 1st April, 2020.
10(34) (exemption to dividend income from companies)	Exemption from tax in hands of shareholders for dividend dividends declared, distributed or paid from domestic companies who have paid DDT	Exemption not available to the shareholders for dividend received on or after 1st April, 2020. Accordingly, dividend income will be taxable on or after 1st April, 2020 as per tax rate applicable to the recipient shareholder.
115BBDA (tax payable by high dividend earners)	Tax on dividend received from domestic companies by specified assessee taxable @ 10% (plus	This section will not be applicable for dividends received on or after 1st April, 2020.

Section	Existing provision	Proposed provision
	applicable surcharge and cess) in excess of INR 10 lakhs	
194 (tax deduction on payment of dividend by domestic company to resident shareholders)	Tax shall be deducted on payment of dividends (other than dividends subject to DDT and exempt) at the rates in force. No tax is to be deducted in case of an individual shareholder if: - the company pays dividend by an account payee cheque, **and** - amount of total dividend does not exceed INR 2,500 in the FY.	Tax of 10% to be deducted on payment of dividend to resident shareholder. No tax will be deducted in case of an individual shareholder if: - the company pays dividend by any mode other than cash **and** - amount of total dividend does not exceed INR 5,000 in the FY.
195 (tax deduction on payment of dividend by domestic company to non-resident shareholders)	Tax is not required to be deducted at source on dividend subject to DDT, payable to a non-resident (including a foreign company).	Tax will be required to be deducted on dividend payable to non-resident shareholders (including a foreign company) at the following rates in force: a. NRI opting for Chapter XII-A (i.e. foreign exchange asset) – 20% plus applicable surcharge and cess. b. Other non-residents (other than FPI) – for foreign company 40%/ for others 30% plus applicable surcharge and cess. The above rates are subject to provisions of applicable DTAA.

Section	Existing provision	Proposed provision
115A (taxation of dividend income of non-residents)	Exemption from tax in the hands of non-resident investors for dividend from domestic companies which is subject to DDT.	Dividend income of non-resident investors will be taxable @ 20% plus applicable surcharge and cess, subject to applicable DTAA provisions.
196D (tax deduction on payment of dividend to FPIs); *and*	Tax is not required to be deducted at source on dividend subject to DDT, payable to FPIs.	Tax will be required to be deducted on dividend payable to FPIs at 20% plus applicable surcharge and cess.
115AD (taxation of investment income of FPIs)	Exemption from tax in hands of FPIs for dividends from domestic companies which is subject to DDT	The above rate is subject to provisions of applicable DTAA. Dividend income of FPI will be taxable @ 20% plus applicable surcharge and cess, subject to applicable DTAA provisions.

Section	Existing provision	Proposed provision
IMPACT ON MUTUAL FUNDS AND THEIR UNITHOLDERS		
115R (tax payable by mutual funds on distribution of income)	Mutual funds to pay tax on income distribution to its unit holders	The section will not be applicable for income distributed by mutual funds to unit holders on or after 1st April, 2020
10(35) (exemption to receipt of income from mutual funds)	Exemption from tax in hands of unit holders for income received from mutual funds who have paid tax on distribution	Exemption not available to the unit holders for income received on or after 1st April, 2020. Accordingly, such income will be taxable on or after 1st April, 2020 as per tax rate applicable to the unit holder.
194K (deduction of tax on income paid to residents in respect of units)	This section was omitted by the Finance Act, 2016	Tax of 10% to be deducted on payment of income to residents on units of MF specified under section 10(23D)

Section	Existing provision	Proposed provision
		No tax will be deducted where the amount of total dividend does not exceed INR 5,000 in the FY.
196A (deduction of tax on income paid to non-residents in respect of units)	Tax is not required to be deducted on income payable by MF or Unit Trust of India to its non-resident unit holders.	Tax of 20% (plus applicable surcharge and cess) to be deducted on payment of income on units to non-residents.
DEDUCTIONS AGAINST TAXABLE DIVIDEND INCOME		
57 (deduction of expenditure against dividend income)	In case of taxable dividends, any reasonable sum paid by way of commission or remuneration to a banker or any person for realizing such dividend, is allowable as deduction against such taxable dividends.	Deduction against taxable dividend or income from units of MF restricted to only interest expense incurred in connection with earning such income subject to a cap of 20% of such income.
80M (deduction in hands of domestic companies in respect of certain inter-corporate dividends)	This section was omitted by Finance Act, 2003	Dividend received by a domestic company from other domestic company shall be allowed as a deduction from income of the recipient domestic company; provided it distributes dividend on or before 1 month prior to the due date of filing the income-tax return. The amount of deduction is capped at the amount of dividend received from the other domestic company.

CNK Comments: This amendment re-introduces the classic system of taxing income in the hands of the recipient at the tax rate applicable to them instead of taxing the distributing entity at a flat tax rate. In case of individual resident assessees subject to highest tax rate of 42.74%, this system of taxation will entail higher tax outgo on an overall basis. This is because prior to this amendment, the total tax payable on such dividend was 28.87% as explained below:

Particulars	Present system of DDT	Proposed system
Amount available for distribution (inclusive of dividend and DDT)	100.00	100.00
DDT @ 20.56% = 100 * 20.56 / 120.56	17.05	NA
Net dividend paid out (ignoring TDS)	82.95	100.00
Tax in hands of shareholder	11.82 (14.25% under section 115BBDA)	42.74 (under normal slabs)
Net dividend in hand	71.13	57.26
Total tax paid in the above computation	28.87	42.74

There may be an additional tax payable under this system even in case of assessees subject to an average tax rate of 20%.

With the taxation of dividend in hands of the investors, unit-holders of mutual funds may consider reviewing whether switching from dividend schemes to growth schemes is more tax efficient, especially in cases of individuals covered under high tax brackets.

In case of non-resident shareholders, the possibility of reducing the rate of tax deduction under an applicable DTAA of India can be explored. However, applying a lower tax rate than the 20% plus applicable surcharge and cess under section 115A would require the non-resident shareholder to file a tax return in India as the exemption from filing tax return under section 115A(5) would not be available.

Also, compliance burden on domestic companies (especially listed companies) and mutual funds will increase for purpose of determining tax to be deducted at source while making payment of income to non-residents such as maintaining PAN, obtaining TRC if providing benefit under DTAA, filing the withholding tax returns for such payments, etc.

However, there are certain issues which require further clarification:

a. For payments to non-residents other than NRIs covered by Chapter XII-A and FPIs, the Part II to the First Schedule of Finance Bill, 2020 does not provide any specific rate of tax deduction. This implies that in such cases the taxes could be deducted at the residual tax rate of 40% (foreign company) / 30% (others) plus applicable surcharge and cess. This is despite the fact that the income is ultimately taxable only at the rate of 20% plus applicable surcharge and cess under section 115A. This is an anomaly which may result in an undesired burden on the non-resident shareholder to file tax return and claim refund of taxes.

b. The exemption from income-tax under section 10(34) and 10(35) is available only for income received upto 31 March 2020. It would be desirable to clarify that cases of income/ dividend declared prior to 31 March 2020 and subjected to distribution tax would also be exempt from tax under these sections even if received on or after 1 April 2020.

c. While section 57(1) permits claiming deduction against taxable dividend of certain charges paid for realization of the dividend, new proviso to section 57 permits only interest expenditure to be deducted from taxable dividend income subject to cap of 20% of such income. This is unfair and needs to be reconsidered.

For computing DDT liability of an Indian company, section 115-O provided deduction for dividend received from its subsidiary including a foreign subsidiary. However, to avail this deduction, the Indian company needed to declare / pay the dividend in the same financial year in which the dividend from the subsidiary was received.

In a welcome move, deduction under section 80M will be available even if the dividend is distributed by the recipient Indian company after the financial year in which the dividend is received from any domestic company, not necessarily being a subsidiary. However, it would be desirable that in line with section 115-O, the deduction should be extended even to dividend received from foreign subsidiary.

Expenditure incurred for earning exempt income is to be disallowed under section 14A. This section has witnessed prolonged litigation with tax authorities especially in cases where substantial exempt income was earned by the assessee in the form of dividend from companies and income from mutual funds. With these incomes now no longer being exempt in hands of the assessee, the impact of, and litigation under, section 14A may practically reduce.

The net-dividend/ take-home income of preference shareholders (earning fixed rate of dividend) may also be negatively impacted as their earlier tax-free dividend will now be subject to tax in their hands.

Concessional tax regime under section 115BAB extended to electricity generating companies

Presently, section 115BAB grants option to domestic companies, set up and registered on or after 1st October, 2019 and commencing manufacturing or production of an article or thing by 31st March, 2023 to offer their income to tax at concessional rate of 15% (plus applicable surcharge and education cess), subject to fulfilment of certain conditions.

The said benefit of concessional tax regime has now been extended to include domestic companies engaged in the business of generation of electricity, set up and registered on or after 1st October, 2019 and commencing generation of electricity on or before 31st March, 2023.

This amendment is applicable from AY 2020-21.

Amalgamation of public sector banking and certain insurance companies

Section 72AA allows losses of banks merged under a scheme covered under the Banking Regulation Act, 1949 to be carried forward to the merged entity. However, this did not cover merger of public sector banks as well as government general insurance companies. Accordingly, the section has been amended to allow carry forward of losses to the merged entity in the case of merger of public sector banks and government general insurance companies.

CNK Comments: In the recent past, we have seen consolidation in the form of merger of various public sector banks by the Government. This amendment would have a positive impact in case of public sector banks and other government insurance companies sought to be consolidated by the Government.

This amendment is applicable from AY 2020-21.

Insurance Companies: Applicability of Section 43B

Rule 5(A) of Part B of the First Schedule, dealing with computation of profits and gains of a company in the business of insurance other than life insurance. provides that any expenditure or allowance which is not admissible as per section 30 to 43B is required to be added back while computing income. Accordingly, certain unpaid expenditure would get added to the total income, as the same is allowable as deduction under section 43B only on payment basis. However, there was no corresponding Rule to allow deduction of such expenditure under section 43B when the payment for such expenses was undertaken.

The amended Rule specifically removes this anomaly and allows deduction of such sum on payment basis while computing total income of the insurance company.

Clarifying scope of deduction under section 35AD

Presently, section 35AD(1) provides for 100% deduction on capital expenditure incurred on any specified business during the financial year in which such expenditure is incurred. Section 35AD(4) restricts the allowability of the said capital expenditure under any other section of the Act. Since companies opting for lower corporate tax regime under section 115BAA or section 115BAB are not permitted to claim deduction under section 35AD(1), a possible argument could be made that such capital expenditure was also not eligible for depreciation under section 32, on account of section 35AD(4).

Now, it has been clarified that claiming of deduction under section 35AD of the Act is at the option of the assesse. Hence, deduction of such capital expenditure will be denied only if

100% deduction under section 35AD(1) has been claimed by, and allowed to, the assessee.

This amendment is applicable from AY 2020-21.

CNK Comments: This amendment aims to mitigate possible litigation arising from strict legal interpretation of section 35AD and is a welcome move by the Government. Based on the language of the amendment, deductions under other sections of the Act should also be available to the assessee in cases where deduction under section 35AD is claimed by the assessee but not allowed to it for any reason.

Extending time limit for approval of affordable housing projects

Presently, section 80-IBA provides a deduction of 100% of the profits of the business of developing and building affordable housing projects approved between 1st June, 2016 and 31st March, 2020 and satisfying the prescribed conditions.

Now, the period for obtaining approval of eligible projects for the said deduction has been extended further by 1 more year i.e. up to 31st March, 2021.

CNK Comments: This amendment has been introduced in order to continue encouraging developers to build affordable housing.

Modification in scope of deductions for companies opting for concessional tax rates

Presently, sections 115BAA and 115BAB provide domestic companies an option to avail lower corporate tax rate of 15% (specified manufacturing companies) / 22% (other domestic companies) subject to prescribed conditions. One of the key conditions is that such companies cannot avail specified deductions and incentives, which amongst others include deductions under Chapter VI-A under the heading "C. Deduction in respect of certain incomes", other than section 80JJAA.

Now, the scope of restricted deductions has been amended to provide that such companies cannot claim any deduction under the entire Chapter VI-A, except section 80JJAA and section 80M.

This amendment is applicable from AY 2020-21.

CNK Comments: Such companies would now not be eligible to claim certain popular deductions such as section 80G (which was used for CSR payments). However, permitting deduction under section 80M (i.e. deduction for dividends received from another domestic company while issuing dividends) will provide necessary relief to such companies on account of abolishment of DDT.

International Taxation/Transfer Pricing

Deferment of Significant Economic Presence (SEP) provisions

In accordance with the OECD BEPS Action 1 Report, SEP was introduced in the Finance Act, 2018 so as to bring within taxing rights, income of a non-resident arising out of digitized and consumer-facing businesses. However, the same was not operationalized. With the recent discussions at the OECD, a consensus-based solution in respect of taxation of digitized and consumer-facing businesses is expected by the end of 2020. Accordingly, the SEP provisions are deferred to FY 2021-22. Further the CBDT has also been empowered to make rules to provide for the manner and the procedure by which the income shall be arrived at in the case of-

(i) operations carried out in India by a non-resident; and
(ii) transaction or activities of a non-resident.

CNK Comments: The Inclusive Framework of the OECD/G20 released a Statement on 31 January 2020 reinforcing the Unified Approach as the method for negotiating a consensus-based solution to be agreed by December 2020. Further, given that the SEP would not lead to any taxing right unless the tax treaties were duly amended, the deferment of the SEP until a consensus-based solution is finalized, seems to be the right move. These ambiguities need to be addressed before the Bill is enacted.

Taxation from advertising and consumer-facing activities

A new explanation has been inserted in section 9(1)(i) to provide that the profits attributable to a business connection shall include income from:

a. Advertisements which target customers residing in India or customers who access the advertisement through an IP address located in India;
b. Sale of data collected from or sale of goods and services using data collected from a person who resides in India or from a person who uses an IP address located in India.

While the above amendment is effective from AY 2021-22, the profits attributable to the SEP in India shall also include the above income with effect from AY 2022-23.

CNK Comments: While the Memorandum to the Finance Bill suggests that the above amendment is a source rule, the amendment is only in respect of the attribution rules and therefore, does not seem to create any nexus to enable taxation. However, this may impact assessees who would already have a business connection in India on account of other activities and this amendment may increase the profits attributable to the business connection. Therefore, until SEP is applicable, the above amendment would be a provision similar to the force of attraction rule provided in some existing tax treaties. Further, while the intention is to cover digitalised and consumer-facing businesses, given the terms used such as 'income from advertisement' (as against income from advertising services), 'data' and 'resides', there could be unintended consequences.

Amendment in definition of royalty

While the definition of the term 'royalty' under the domestic tax law excludes consideration for the sale, distribution or exhibition of cinematographic films, most of the tax treaties entered into by India include such definition in the treaty, giving the right of taxation to India. In order to enable India to tax such income, already provided in the tax treaties, the definition of the term is amended to remove such exclusion.

CNK Comments: While no specific inclusion has been made to the term, the removal of the exclusion would also enable the tax authorities to tax such income as royalty. This would also now result in applicability of TDS under section 194J in respect of such payments.

Amendment in the Act to deny tax treaty benefit in cases of tax evasion or avoidance

Presently, section 90 empowers the Central Government to enter into a tax treaty with the government of any other country or specified territory outside India for the avoidance of double taxation of income.

India has signed the MLI which amends the tax treaties with various countries with the objective to prevent BEPS. In order to provide enabling provisions for the Government to implement the MLI, section 90(1) and 90A(1) have been amended.

CNK Comments: While the MLI has been made operational through this amendment, expectation of aligning the implementation of the Principal Purpose test with the domestic GAAR provisions, has not been met.

Non-resident earning income from royalty/ FTS not to file tax return in certain cases

Presently, section 115A grants exemption from filing of income tax return to the non-resident earning only dividend or interest income on which applicable taxes have been withheld. Non-residents earning income from royalty/FTS are still required to file their return of income, even though appropriate taxes have already been withheld on such income.

Section 115A has been amended to extend the relaxation from filing tax returns to non-residents having income from royalty/ FTS where the taxes on such income is withheld as per the rates prescribed in the Act.

CNK Comments: Non-residents availing tax treaty benefits for royalty/ FTS income whereby the tax rates are lower as compared to rates prescribed under section 115A will still be required to file their return of income in India. Further, while earlier income in the form of interest and dividend did not require filing of return of income in India, with the amended section, an assessee earning such income and taking the benefit of the tax treaty would be required to file their return of income.

Relief in respect of disallowance of deduction of interest paid to AE

Section 94B restricts the deduction in respect of interest paid to a non-resident AE to 30% of the EBITDA. Further, section 92A defines the term 'associated enterprises' to include a situation where the loan borrowed exceeds 50% of the book value of the assets of the borrower.

This had resulted in interest paid by an Indian company or PE of a foreign company to an Indian branch of a foreign bank being considered as subject to restriction of 30% of the EBITDA on account of the definition of 'associated enterprises'. To address this concern, the section is amended to exclude interest paid in respect of a debt issued by an Indian branch of a foreign bank.

CNK Comments: While the intention seems to be to exclude interest paid in respect of a debt issued by an Indian permanent establishment of a non-resident, it does not exclude interest on debt issued by a non-resident outside India.

Widening the scope of Safe Harbour Rules and Advance Pricing Agreement:

Presently, section 92CB empowers the CBDT to make SHR for determination of arm's length price under section 92C or section 92CA. The scope of SHR has been extended to include determination of profit attributable to the PE of non-resident.

Presently, section 92CC empowers the CBDT to enter into APA for determination of arm's length price under section 92C or section 92CA. The scope of APA has been extended to include determination of profit attributable to the PE of non-resident.

CNK Comments: Even determination of profit attributable to the PE of non-resident would get covered by SHR. It would now be possible for a non-resident assessee to enter into an APA for the determination of profit attributable to the PE of non-resident. The above amendment would bring in certainty and if implemented well, would reduce litigation.

Modification in conditions in case of eligible investment funds

Section 9A provides for a special regime in respect of offshore funds by providing them exemption from creating a "business connection" in India on fulfilment of certain conditions. It provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund. The benefit under section 9A is available subject to fulfilment of certain specified conditions.

One of the conditions for eligibility of the fund requires that the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India not to exceed 5 percent of the corpus of the fund. This condition is difficult to comply with in the initial years as eligible fund manager resident in India, is required to invest his money to create reputation to attract investment.

One other condition for eligibility of the fund requires that the monthly average of the corpus of the fund shall not be less than INR 100 crore except where the fund has been established or incorporated in the previous year in which case, the corpus of fund shall not be less than INR 100 crores at the end of a period of six months from the last day of the month of its establishment or incorporation, or at the end of such previous year, whichever is later. This condition does not apply in a case where the fund has been wound up. The period for fulfilling the requirement of monthly average of the corpus of INR 100 crore ranges from six months to eighteen months, in so far as the fund established or incorporated on last day of the financial year would get six months and the fund established or incorporated on first day of the financial year would get eighteen months.

Amended section 9A relaxes these two conditions so as to provide that:

(i) for the purpose of calculation of the aggregate participation or investment in the fund, directly or indirectly, by Indian resident, contribution of the eligible fund manager during first three years up to INR 25 crore shall not be counted; and
(ii) if the fund has been established or incorporated in the previous year, the condition of monthly average of the corpus of the fund to be at INR 100 crore shall be fulfilled within twelve months from the last day of the month of its establishment or incorporation.

Exemption to FPIs from indirect transfer of assets aligned in line with amended SEBI regulations

Presently, capital gains of non-residents from direct or indirect transfer of shares / units in Category-I and Category-II FPIs (as defined under the Securities and Exchange Board of India (SEBI) (FPI) Regulations, 2014) are exempt from tax in India. In popular terms, this is known as exemption from indirect transfer provisions or "Vodafone tax" and the same is not available to residual category of FPIs i.e. Category III. In September 2019, SEBI (FPI) Regulations, 2014 have been replaced by SEBI (FPI) Regulations, 2019 where the categories of FPIs have been reduced from 3 to 2 i.e. new Category I FPIs now include all erstwhile Category I and most Category II FPIs whereas new Category II FPIs are residual category and include erstwhile Category III FPIs and few Category II FPIs. The characterisation of existing FPIs registered under the 2014 regulations is automatic under the 2019 regulations.

As a result, the indirect transfer provisions are amended to provide the exemption only to non-resident investors of new Category-I FPIs only.

This amendment is applicable from AY 2020-21.

CNK Comments: This amendment is procedural and was expected in light of change in categories of FPIs under the 2019 regulations of SEBI.

Amendments relating to Charitable Trusts

New procedure for registration of Trusts under section 12AB and approval under section 80G

Presently, Trusts/Institutions/Funds (Trusts) claiming exemption under section 10(23C)(iv), (v), (vi), (via), and section 11 require a one-time registration. Similarly, Trusts receiving donations eligible for deduction under section 80G require one-time registration. The concept of renewal of registration has been reintroduced. Trusts have to apply for re-registration to the Commissioner of Income Tax (Exemptions) as stated below.

Sr. No.	Category	Application to be made	Action to be taken by Principal Commissioner or Commissioner	Time limit for granting or rejecting application
(1)	Trust already approved under the existing provisions – i.e. under section 10(23C), 80G, 12A or 12AA	On or before 31st August, 2020	Order granting approval for a period of 5 years	Within 3 months from the end of the month in which application was received
(2)	Trust registered or re-registered on or after 1st June, 2020 under section 12AB	At least 6 months before the expiry of registration	i. Calling for documents and conducting inquiries for satisfying genuineness of activities and other compliances, ii. Either grant the registration for period for 5 years or reject the application after	Within 6 months from the end of the month in which application was received
(3)	Trust provisionally registered under section 12AB (for the first time)	i. At least 6 months before the expiry of provisional registration, or ii. Within 6 months from commencement of activities of the trust,		

		whichever is earlier.	giving an opportunity of being heard	
(4)	Trust modifying the objects	Within 30 days of date of modification	As above	As above
(5)	In any other case not covered above	At least 1 month before the commencement of relevant previous year.	Order granting provisional approval for a period of 3 years	Within 1 month from the end of the month in which application was received

Presently, it is difficult to obtain approval under section 12AA for a Trust before commencement of its activities. It is provided that provisional registration would be granted to such a Trust for a period of three years. Fresh application for registration in clause 3 above is required to be made within 6 months before expiry of provisional registration or 6 months after commencement of activities, whichever is earlier.

Where the accounts are required to be audited under the existing provisions of the Act, the audit report shall be furnished one month before the due date of filing of return of income.

CNK Comments: This provision will increase the compliance burden on Trusts manifold. Further as per earlier experience, the tax department was not able to process these applications in time causing hardship to the Trusts.

No general exemption under section 10

Provisions of sections 11, 12, 12A, 12AA and 13 of the Act constitute a complete code in itself for Charitable Trusts and consequently no other exemption provisions are applicable to them. Accordingly, where a Trust has obtained registration under section 12AA or 12A of the Act, it cannot claim exemption under section 10 other than under section 10(1) and 10(23C). This exception has now been extended to section 10(46). Accordingly, entities established or constituted under a Central or State Act or by a Central or State Government registered under section 12A or 12AA can now be notified under section 10(46). Simultaneously it is proposed to discourage switching of exemption between section 10 and 11 in case the Trust is eligible to claim exemption under both the sections. Hence in such cases, registration under section 12A or 12AA or 12AB, as the case will become inoperative from the date on which the Trust gets approval under section 10(23C) or 10(46) or from June 1, 2020 whichever is earlier.

To facilitate on time switching, the Trust may apply to get its registration restored under section 12AB for which application needs to be made at least 6 months before the commencement of the relevant Assessment Year. The approval under section 10(23C) or 10(46), shall cease to have any effect from the date on which the registration becomes operative.

Amendments related to TCS/TDS

Applicability of TCS to remittance under LRS, overseas tour programs and sale of goods

Applicability to LRS and overseas tour operator programs

The provisions of TCS have been amended to include the following –

a) Receipts by an Authorized Dealer amounting to INR 7 lakhs or more in a financial year for remittances outside India under the Liberalized Remittance Scheme ('LRS') of the RBI;
b) Receipt of any amount by a seller of overseas tour program packages; and

Under the said provision, the Authorised Dealer or the tour operator shall collect TCS at the rate of 5% (to be increased to 10% if neither PAN nor Aadhar number are provided).

However, no TCS is to be collected in the following cases –

a) Where the buyer is a Government Authority or any other notified person;
b) In case of payments under LRS and payments for overseas tour programs, if the buyer is liable to deduct tax at source under any other provision of the Act and has deducted such amounts; and

CNK Comments: The amendment aims at deepening the tax net by proposing to levy TCS on overseas remittances and payments for sale of overseas tour packages from a buyer. LRS is one of the most-widely used routes for remittances by residents abroad and this amendment may result in blockage of funds to the extent of the TCS even though no income arises out of the transaction. Further, it may apply even in cases where remittance is made to one's own bank account outside India.

Moreover, the term of tour operator is wide enough to cover even aggregators for hotels or payments to hotels outside India.

Applicability to sale of goods

The TCS provisions have also been extended to seller of goods. Further, every seller, whose turnover in the immediately preceding financial year exceeds INR 10 crore, who receives an amount exceeding INR 50 lakhs in aggregate from a buyer in any previous year on sale of goods (other than receipts from sale of alcohol, motor vehicles, remittances under LRS and overseas tour program packages), shall collect a sum of 0.1% (to be increased to 1% if neither PAN nor Aadhar number are provided) on the sale consideration exceeding INR 50 lakhs from the buyer of such goods. Further, TCS shall not apply in case of sale of goods, where the seller is liable to collect TCS under any other provisions of section 206C or the buyer is liable to deduct TDS under any other provision of the Act and has deducted such amount.

CNK Comments: The term 'goods' has not been defined. Further, a certificate for collection of tax at a lower rate may be obtained by the buyer in case of purchase of alcohol liquor, motor vehicles, etc under the existing provisions. However, no such option has been provided for obtaining a certificate for lower collection of taxes for payments relating to LRS, overseas tour package and sale of goods.

Definition of the term "work" in section 194C broadened

Section 194C requires any person responsible for making payment of a contract for carrying out any work in pursuance of a contract to deduct tax at source. Presently the term "work" includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. Any manufacturing or supplying by using material purchased from a person, other than such customer was excluded.

The definition of the "work" under section 194C has now been widened to include purchase of raw material from a customer or an associate of such customer, as defined in section 40A(2)(b). Contract for manufacturing, using raw material purchased from the associate would now require deduction of tax at source as per section 194C.

Rate of TDS on fees for technical services (other than professional services) reduced from 10% to 2%

Presently, as per section 194J, the specified person is required to deduct tax at 10% while paying/crediting to the account of a resident, any sum by way of:

- fees for professional services;
- fees for technical services;
- any remuneration or fees or commission by whatever name called (other than those on which tax is deductible under section 192), to a director of a company;
- royalty;
- sum referred to in section 28(va) in the nature of non-compete fees

Now, the rate of tax deduction under section 194J for payments in the nature of 'fees for technical services' (other than professional services) will be reduced from 10% to 2%.

CNK Comments: The amendment has been introduced with a view to reduce litigation where assessee was considered as an assessee-in-default for deducting tax at a lower rate of 2% under section 194C on the ground that the services are routine in nature.

All other payments covered under section 194J such as royalty, professional fees and director fees will continue to attract tax deduction at 10%.

TDS on E-commerce transactions

A new section 194-O is proposed to be inserted for deduction of tax by an e-commerce operator on credit of amount to a resident assessee selling goods or providing services through the e-commerce platform. TDS shall be deducted at 1% on the gross amount of the sales or services provided and such TDS shall not be deducted in case the seller/ service provider is an individual or HUF and the gross amount of sales/services through the e-commerce platform does not exceed INR 5 lakh and such seller has furnished his PAN/Aadhar number to the e-commerce operator.

Further, if the above threshold of INR 5 lakhs is not exceeded, no TDS shall be deducted under any other section. However, this exemption from TDS will not apply where the e-commerce operator receives any sum for hosting or any other services not related to the sale/provision of services rendered by the seller on the platform.

CNK Comments: This amendment seeks to widen the TDS base to cover sale of goods by a resident assessee through an e-commerce platform. Further, a seller of goods/service provider would be subject to TDS even in a scenario where such goods are sold or services are provided to individuals not being subject to tax audit. The new section also places an onerous responsibility of deducting TDS on the e-commerce operator even in a scenario where the buyer pays directly to the account of the seller. This may be practically difficult to implement and may cause an inconvenience.

Period and scope of concessional TDS rate under section 194LC extended

Presently, section 194LC provides for concessional withholding tax rate of 5% in respect of interest paid to non-residents on certain borrowing and bonds issued up to 1st July, 2020 from sources outside India. The concessional TDS rate would now be available to borrowing made or bonds issued up to 30th June, 2023. Further, the concessional withholding tax rate in respect interest on long term bonds and rupee denominated bonds issued from 1st April. 2020 to 30th June. 2023, which are listed only on any recognized stock exchange located in IFSC would be 4%.

CNK Comments: While the TDS provisions in section 194LC have been amended for bonds listed only in IFSC, section 115A(1)(a)(BA), specifying the rate of tax in the hands of the non-resident recipient has not been amended.

Period of concessional TDS rate under section 194LD extended and made available to municipal bonds

Presently, section 194LD provides for concessional withholding tax rate of 5% in respect of interest paid to FII and QFIs on investment in government securities and RDB issued up to 1st July, 2020. The concessional TDS rate would now be available to interest paid to FII and QFI on government securities and RDB issued up to 30th June, 2023. Further, the benefit of concessional rate has been extended to investment made by FII and QFI in municipal debt security from 1st April, 2020 to 30th June, 2023.

Large co-operative societies required to deduct tax under section 194A on payment of interest income

Presently, section 194A requires deduction of tax at source on Interest income, other than interest on securities. However, co-operative societies are exempted from the requirement to deduct tax on payment of the interest in the following situations:-

1. A co-operative society (other than a co-operative bank) paying interest to its member(s);
2. A co-operative society paying interest to another co-operative society;
3. A primary agricultural credit society, a primary credit society, a co-operative land mortgage bank, a co-operative land development bank paying interest on deposits maintained with it;
4. A co-operative society engaged in the business of banking (not covered elsewhere in the section) paying interest on specified deposits maintained with it.

Now, a co-operative society is also required to deduct tax at source from payments under the above transactions under section 194A provided the following conditions are met:-

1. The total sales, gross receipts or turnover of the co-operative society exceeds INR 50 crore in the immediately preceding FY; and
2. The total amount of interest, credited/paid/likely to be credited or paid, during the financial year is more than INR 50,000 in case of a senior citizen payee and INR 40,000 in case of any other payee.

CNK Comments: The said amendment is made with a view to enlarge the scope of tax deduction in case of payments of interest by large co-operative societies and widen the tax base.

TDS on dividends – Refer Page 16

Other Important Amendments

Enhanced threshold limit for conducting tax audit under section 44AB in certain circumstances

Presently, every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts, in business exceeds INR 1 crore in any previous year.

The threshold limit of turnover of INR 1 crore in case of a person carrying on business will now be increased to INR 5 crore in cases where the aggregate of all receipts as well as payments in cash during the previous year does not exceed 5% of total receipts or payments, as the case may be.

This provision is applicable from AY 2020-21.

Further, the limit for non-applicability of requirement to deduct/collect TDS/TCS relating to payment of interest, payment to contractors, payment of brokerage, payment of rent, payment of professional fees, etc. (sections 194A, 194C, 194H, 194I, 194J and 206C) is delinked from the applicability of tax audit and fixed at INR 50 lakhs and INR 1 crore in respect of an individual/HUF/AOP/BOI undertaking profession and business respectively.

CNK Comments: The amendment aims to promote cash less economy by providing benefit to the persons carrying on business whose turnover does not exceed INR 5 crore. Further, the amendment gives rise to an anomaly wherein a person claiming profit below the presumptive rate of taxation of 8% (or 6%, as the case may be) with turnover below INR 2 crore would need to get the accounts audited whereas a person with a turnover above INR 2 crore but below INR 5 crore, not eligible for presumptive tax, need not get the accounts audited.

Due date for filing return of income under section 139(1)

Presently, for companies, entities subject to tax audit or audit under any other law and working partner of a firm subject to tax audit, the due date for filing tax audit report as well as the return of income is 30th September of the relevant AY.

The due date for filing the return of income in respect of the above assessees is extended to 31st October. However, the due date for filling the tax audit report is still 30th September in order to enable pre-filling of returns in case of persons having income from business or profession. Further, the extended due date is also now applicable for a non-working partner of a firm which is subject to tax audit.

Further, in respect of assessees which are subject to transfer pricing, while the due date for filing the return of income would continue to be 30th November, the tax audit report for such assessees would also need to be filed atleast one month prior to the due date of filing return i.e. 31st October.

The one month prior to filing of return of income deadline would also apply in respect of other certificates to be filed such as under section 80JJAA, 80-IC, 80-IA, 115JB, etc.

This amendment is applicable from AY 2020-21.

Amendments related to taxation of capital gains

Method of computation of cost of acquisition for asset acquired before 1st April, 2001

While computing cost of acquisition to determine capital gains, the assessee has an option to replace the actual cost of the asset with the fair market value if the said asset is acquired before 1st April, 2001.

The section is amended in case of a capital asset, being land or building or both, to restrict the fair market value of such asset as on 1st April, 2001 to the extent of the stamp duty value of such asset as on such date.

Taxation based on Stamp Duty Value of Immovable Property

At present, while taxing income from capital gains (section 50C), business profits (section 43CA) and other sources (section

56) arising out of transactions in immovable property, the sale consideration or stamp duty value, whichever is higher is adopted as full value of consideration. The difference between sale consideration and stamp duty value is taxed as income both in the hands of the purchaser and the seller unless the difference between the two is limited to 5%.

Now, the acceptable difference will increase from 5% to 10%.

CNK Comments: The Hon'ble Finance Minister mentioned in her budget speech that this amendment aims to minimize hardship and provide relief in real estate sector. While this is a welcome amendment, the acceptable difference of 10% may still not suffice the purpose. In fact, the Supreme Court in case of C.B. Gautam *([1992] 65 Taxman 440)* had considered a difference of 15% as acceptable in cases of transfer of immovable property.

<u>Computation of cost of acquisition and determination of period of holding of segregated portfolios</u>

SEBI vide circular[1] dated December 28, 2018, permitted creation of segregated portfolio of debt and money market instruments by Mutual Fund schemes. As per the SEBI circular, all the existing unit holders in the affected scheme, as on the day of the credit event, is allotted equal number of units in the segregated portfolio as held in the main portfolio.

To give effect to this segregation, it has now been provided that w.e.f. AY 2020-21:

- Period of holding units in segregated portfolio will be the period for which the original unit(s) in the main portfolio were held;
- Cost of acquisition of unit(s) of segregated portfolio will be:

$$\text{Cost of acquisition of unit(s) in the total portfolio} \times \frac{\text{Net asset value of the asset transferred to the segregated portfolio (before the segregation of portfolios)}}{\text{Net asset value of the total portfolio immediately before the segregation of portfolios}}$$

- Cost of acquisition of the original unit(s) in the main portfolio will stand reduced by the cost of acquisition of unit(s) of segregated portfolio determined as above.

The terms "main portfolio", "segregated portfolio" and "total portfolio" shall have the meaning respectively assigned to them in the said SEBI circular.

CNK Comments: This amendment seeks to provide much desired clarity on various tax issues arising from the

[1] SEBI/HO/IMD/DF2/CIR/P/2018/160

exceptional event of segregation of portfolio by mutual fund schemes. The provisions are on similar lines as those provided in case of demerger of shares.

Taxation regime under section 115UA applicable to listed business trust extended to unlisted business trust

Section 10(23FC) read with Section 115UA provides for taxation regime on income earned by business trust and unit holder. As per section 2(13A), "business trust" means InvIT and REIT registered under SEBI Act which are listed on the recognised stock exchange.

Since SEBI now permits InvITs to be unlisted, the condition of business trust being listed on the recognised stock exchange has been done away with. Accordingly, income earned by unlisted business trust and their unit holder would be as per section 115UA.

Under the existing regime read with section 10(23FC) any interest income from a special purpose vehicle and dividend paid by a business trust to unit holder were exempt in the hands of business trust. An amendment has been made whereby interest and dividend income earned by business trust would be accorded a pass-through status and would be taxable in the hands of the unit holders.

Earlier dividend income which was subject to DDT was exempt in the hands of recipient. However, in view of the removal of provision relating to DDT, dividend income would be taxable in the hands of unit holder.

Taxation of Start-ups

The existing Income Tax provisions offer certain tax incentives to eligible start-ups. Such eligible start-ups are companies or limited liability partnerships incorporated during the period between 1st April, 2016 and 31st March, 2021, (both days inclusive) and hold a certification of eligible business from the notified Inter-Ministerial Board. To avail these benefits the start-ups should carry out business related to innovation, development or improvement of products / processes or services or be a scalable business model with high potential of employment generation / wealth creation.

Section 80-IAC provides for income linked deduction in case of eligible start-ups, wherein 100% of the profits earned from such business by an eligible start-up is deductible. Under the existing provisions, to enable an otherwise eligible start-up to claim deduction, its turnover for the previous year in which such deduction is to be claimed should not exceed INR 25 crores. It is proposed to increase this threshold to INR 100 crores, thereby facilitating more start-ups to claim the deduction.

Further, presently the eligible start-up has an option to claim deduction for any three consecutive AYs out of seven AYs beginning from the year of incorporation. It is now proposed to increase this period from seven to ten AYs from the year of incorporation of the start-up, within which it can chose any three consecutive years for availing the deduction.

Vivad se Vishwas Scheme, 2020 for Dispute Resolution

In the last year budget, the Finance Minister had introduced "Sabka Vishwas Scheme" with an intention to reduced litigation in indirect taxes. This scheme resulted into settling over 1,89,000 cases.

Presently, there are 483,000 direct tax cases pending at various appellate levels i.e. CIT(A), ITAT, High Court and Supreme Court. The new scheme of "Vivad se Vishwas" is proposed to be introduced with the similar intention to reduce litigation in direct taxes.

Under the proposed scheme, the assessee would get complete waiver of interest and penalty, provided full amount of disputed tax is paid by 31st March, 2020. The Scheme shall remain open even after 31st March, 2020 up till 30th June, 2020. The assessee making the payment after 31st March, 2020 will be required to pay some additional amount in addition to disputed tax.

The detailed scheme would be announced shortly.

Penalty for false entry, etc. in books of accounts

Section 271AAD has been inserted to provide for levy of penalty if during any proceedings it is found that:

a. the books of account maintained by any person contain a false entry; or
b. any entry has been omitted from books of account maintained by any person which is relevant for the computation of total income of the person.

In that case, such person shall be liable to pay a penalty equivalent to the aggregate amount of such false and omitted entries. The penalty will also be levied on any person who causes any person to make a false entry or omission of entry, as mentioned above.

CNK Comment: This amendment seeks to address cases where fraudulent invoices are issued to reduce tax liability under the Goods and Services Tax (GST) law. From the notes to the finance bill it appears that the penalty can be levied only on a person who is required to maintain books of accounts. Further, it appears that the penalty will be levied over and above the penalty under section 270A for misreporting/under-reporting of income. While the penalty levied under the new section can be appealed against before the Commissioner of Income-tax (Appeal), the new section also does not lay down the procedure for levy of penalty. It also does not provide for a period of limitation for imposing penalties under section 274 and 275 respectively. Accordingly, there is no clarity on how the new penalty section will be practically implemented.

Tax Administration/Procedural Amendments

Modification in E-assessment Scheme

Section 143(3A) inserted by the Finance Act, 2018 empowered the Central Government to make a scheme for e-assessment for the purpose of making regular assessment under section 143(3).

The scope of e-assessment has been extended to permit making of a best judgement assessment as per section 144.

The time limit for issue of directions to provide for exceptions, modifications and adaptations has been extended from 31st March, 2020 to 31st March, 2022.

Faceless Appeal Proceedings

Presently, section 250 lays down procedure to be followed for filing an appeal before the CIT(A). The filing of appeal before the CIT(A) is already in electronic mode. However, the assessee or his authorized representative has the right of being heard, on account of which he physically appears before the CIT(A).

The Central Government is promoting the e-assessment scheme 2019 and thereby desiring to eliminate human interface. To launch an e-appeal scheme on the lines of e-assessment scheme 2019, sub-section (6A) has been inserted which empowers the Central Government to notify an e-appeal scheme.

The Central Government is required to notify the scheme for the purposes of eliminating human interface in hearing of appeals on or before 31st March, 2022.

CNK Comments: It is important that the implementation of this scheme is properly undertaken and the mechanism of providing a fair hearing needs to be put in place.

Introduction of e-Penalty scheme

Section 274 provides for imposition of penalty and as per the existing procedure, the authorized representatives have a right to be heard, due to which they physically appear before the AO.

To launch an e-penalty scheme on the lines of e-assessment scheme 2019, sub-section (2A) has been inserted which empowers the Central Government to notify a scheme for the purposes of imposing penalty which eliminates interface between the AO and the assessee to the extent technologically feasible.

The Central Government is required to notify the scheme on or before 31st March, 2022.

Modification in conditions for grant of stay by the ITAT

Presently, the ITAT, after considering the merits of the application made by the assessee has powers to grant stay of demand for a maximum period of 180 days in any proceedings against the order of the CIT(A). The said powers are subject to the further conditions that where the appeal is not disposed of within the period of 180 days and the ITAT is satisfied that the reason for the delay was not attributable to the assessee, extend the stay for a further period. However, the period of stay originally allowed and the period so extended cannot exceed 365 days. Where such appeal is not disposed of within 365 days, the order of stay of demand granted by the ITAT shall stand vacated after the expiry of such period or periods, even if the reason for the delay in disposing of the appeal is not attributable to the assessee. Under the present procedure for grant of stay, there was no requirement to make full/ part payment of tax demand.

As per amended section, the ITAT may grant stay of demand upto 180 days only where the assessee has deposited not less than 20% of the amount of tax demand or has furnished security of equal amount thereof. Further, stay beyond 180 days can be granted on the application to be made by the appellant, only where the delay in not disposing of the appeal within the said time limit is not attributable to the assessee and the assessee has deposited not less than 20% of the tax demand or has furnished security of amount equal to tax demand. The total stay of demand granted by ITAT in no case can exceed 365 days.

CNK Comments: This amendment is unfair, particularly in light of the high pitched assessments being undertaken.

Dispute Resolution Panel ('DRP')

Presently, section 144C provides for issue of a draft assessment order to an assessee and the right to approach DRP only to certain eligible assessees viz. foreign companies having a variation of income and any person in whose case transfer pricing adjustments have been made. The requirement to provide a draft assessment order and to approach the DRP has now been extended to all non-residents.

Earlier, the draft assessment order was required to be issued only where there was any variation in the income or loss returned. As per the amendment, any variation which is prejudicial to the assessee would now require issue of a draft assessment order which can be challenged before the DRP, even if there is no variation in the returned income or loss.

CNK Comments: The AO would now be required to issue draft assessment order even where there is no change in the returned income or loss, but the draft assessment order is prejudicial to the assessee.

Rationalization of power to conduct survey

Presently, section 133A permits any income-tax authority below the rank of Joint Director/Commissioner to conduct any survey under the said section only with the prior approval of the Joint Director/Commissioner.

Now, the survey can be carried out by income-tax authorities as under:

1. Cases where the information has been received from an authority (to be prescribed), the survey can be conducted by an income-tax authority below the rank of Joint Director/ Commissioner only with the prior approval of the Joint Director/Commissioner; *and*

2. In all other cases, the survey can be conducted by an income-tax authority below the rank of Director/ Commissioner only with the prior approval of the Director / Commissioner.

CNK Comments: This amendment seeks to prevent possible misuse of the powers conferred on the income-tax authorities to conduct surveys. Under the new provisions, the power to conduct survey in respect of cases where information is received from the prescribed authorities, remains the same as earlier. However, for other cases, survey can be conducted only with the prior approval of the Commissioner/Director.

Miscellaneous

Updation of Commodity Transaction Tax (CTT) provisions

New rates of CTT will be prescribed for new commodity derivative products as provided below:

Transactions in New Commodity Derivative Products	Rate of CTT	CTT Payable by
Sale of commodity derivatives based on prices / indices of prices of commodity derivatives	0.01%	Seller
Sale of option in goods	0.05%	Seller
Sale of option in goods, where option is exercised resulting in actual delivery of goods	0.0001%	Purchaser
Sale of option in goods, where option is exercised resulting in a settlement otherwise than by the actual delivery of goods	0.125%	Purchaser

List of persons authorized to verify Income tax return expanded

Section 140 specifies the persons who are authorized to verify the tax return. Presently, in the case of Companies, the tax return can be verified by the Managing Director or in certain circumstances by the director. In case of LLP, the tax return can be verified by the designated partner or any partner in the absence of the designated partner.

Power to verify the tax return in the case of Company and LLP have been extended to include any other persons as may be prescribed for the purpose. The said extension of list of persons who can verify income tax return would also take care of situations where the company or LLP is under IBC proceedings.

Persons who can act as authorized representative

Section 288 specifies the persons who are authorized to appear before any income-tax authority or the Appellate Tribunal. The CBDT has been given the power to prescribe any other person as an authorized representative under section 288 to appear before any income-tax authority or the Appellate Tribunal.

Insertion of taxpayer's Charter in the Act

The CBDT has issued a taxpayer's charter in the past which had no legal backing and was ignored by the tax department. Even OECD has been pushing for greater recognition of taxpayer rights and recommending what needs to be included in Taxpayer Charters.

New section 119A will empower CBDT to adopt and declare a taxpayer's charter and issue such orders, instructions, directions or guidelines to other income-tax authorities as it may deem fit for the administration of charter.

CNK Comments: This amendment aims to provide formal and legal recognition to the rights of the taxpayer and the duties of the income-tax authorities towards the taxpayers and is a welcome development. However, it needs to be seen how it is implemented at ground level and whether the errant tax officials will be held accountable.

Furnishing of Statement of Tax Deduction as per section 203AA discontinued

Section 203AA required prescribed income tax authorities or person authorized by such authority to prepare and deliver a statement in Form 26AS to every person from whose income, the tax has been deducted/ paid specifying the amount of tax deducted/ paid.

Section 203AA has been omitted with effect from 1st June, 2020 and would stand replaced by new section 285BB which requires preparation of an annual financial statement. The prescribed income-tax authority or the person authorized by such authority would be required to upload in the registered account of the assessee a statement in such form and manner and setting forth such information as may be prescribed.

Indirect Taxation

Key Highlights:

- Rationalization of GST provisions intended to facilitate trade and usher in a simplified compliance and refund regime.
- Thrust on digitization through use of deep data analytics and AI tools for detection of leakages in ITC, refunds and frauds.
- Health Cess (Customs Duty) introduced on import of medical devices.
- Increase in Customs Duty on several items with a view to incentivize domestic manufacturers and give a fillip to the "Make in India" movement.
- System of Electronic Duty Credit Ledger introduced under Customs.
- Stringent enabling provisions introduced for administering Preferential Tariff Treatment regime under Trade Agreements.
- Anti-circumvention measures strengthened to deal with contraventions relating to anti-dumping and countervailing duties with a view to protect the interests of domestic manufacturers.
- Significant hike in excise duty rates on tobacco products.

Goods and Service Tax

LEGISLATIVE AMENDMENTS:

Union Territories - Jammu & Kashmir/Ladakh/Others:

- The definition of "Union Territory" has been amended to include "Ladakh" and the merged Union Territories of Dadra and Nagar Haveli and Daman and Diu in the definition of "Union Territory".
- Central Government empowered to establish an Appellate Tribunal in the Union Territories of Jammu and Kashmir and Ladakh.

Composite Scheme:

- Scope of taxable persons covered under the Composition Scheme restricted by excluding tax-payers engaged in making the following supplies from its ambit:
  - Supply of services not leviable to tax under the CGST Act, or
  - Inter-State outward supply of services, or
  - Outward supply of services through an e-commerce operator.

Registration:

- Provisions introduced for cancellation of voluntary registration taken by tax-payers with turnover below the threshold limits.
- Jurisdictional Tax Officers empowered to extend the time limit for filing an application to revoke the cancellation of registration certificate beyond 60 days (earlier 30 days) from the date of service of the cancellation order.

Returns/Invoicing/Debit Notes:

- New Simplified Return System to be implemented w.e.f. 1st April, 2020.
- Central Government empowered to specify the categories of supplies in respect of which a tax invoice shall be issued along with the time and manner thereof.
- Delinking of the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit. Consequently, tax-payers are no longer required to track the date of corresponding invoice to evaluate timelines for availing ITC. The timelines for availing ITC shall now be reckoned from the date of issuance of the debit note.

Tax Deducted at Source:

- Enabling provisions for issuance of TDS certificate by the deductor in a form and manner (to be prescribed).
- Consequential amendments made for deletion of late fees on account of delays in issuance of TDS certificates.

Penalty / Prosecution:

- Scope of penalty and prosecution provisions have been considerably widened with a view to curb fraudulent transactions and to act as a significant deterrent for offenders. Jurisdictional Tax Officers have also been given wide powers to deal with such offenders. Accordingly, the following amendments have been proposed:
    - Recipient of transactions availing fraudulent ITC or evading taxes made liable for penalty equivalent to 100% of ITC availed (akin to the penalty imposable on the person committing the offence).
    - Fraudulent availment of ITC without a valid invoice /bill or without actual receipt of goods/services to be treated as a cognizable and non-bailable offence.

Miscellaneous Provisions:

- Automated and simplified refund process on the anvil for exporters.
- Aadhar based verification of tax-payers to be introduced.
- Enabling provisions for issuance of removal of difficulties order extended by another 2 years, i.e. till 30th June, 2022.

Retrospective Amendments:

Particulars	Period of Exemption
Exemption on supply of fishmeal (falling under Chapter 2301) *	1st July, 2017 to 30th September, 2019
Reduced GST rate of 12% on pulleys, wheels and other parts (falling under Chapter 8483) and used as parts of agricultural machinery (falling under Chapters 8432, 8433 and 8436) *	1st July, 2017 to 31st December, 2018

No refund of accumulated credit on account of compensation cess arising out of inverted duty structure on tobacco products	1st July, 2017 and onwards
Central Government empowered to relax time limits and prescribe manner for carry forward of accumulated ITC of eligible duties/taxes under the erstwhile Indirect Tax laws	1st July, 2017 and onwards
Transfer of business assets without any consideration (which does not qualify to be a supply), consequentially omitted from Schedule II to CGST Act	1st July, 2017 and onwards

* No refund claims can be made in respect of any GST paid for the period of exemption.

Customs

LEGISLATIVE AMENDMENTS:

Health Cess:

- HC @ 5% of import value introduced on import of medical devices (falling under Chapters 9018 to 9022).
- No HC on medical devices exempt from BCD.
- Inputs/parts used in the manufacture of medical devices will also be exempt from HC.
- Export Promotion scrips cannot be utilized for payment of HC.
- HC proceeds to be utilized for funding health infrastructure.

Social Welfare Surcharge:

- Levy of SWC exempted on items such as cheese, bulbs, walnuts, almonds, orange juice.
- Commercial vehicles (including electric vehicles), either imported or in CBU condition, exempt from levy of SWC (w.e.f. 1st April, 2020).
- SWC exemption on items such as line telephone sets/videophones, fax machines and teleprinters, automatic data processing machines, Information Technology Software, digital cameras, printed circuit assemblies, now withdrawn.

Anti-Circumvention Measures – Anti-Dumping Duty/Countervailing Duty:

- Anti-Dumping Rules modified to strengthen the anti-circumvention measures by making them more comprehensive and wider in scope to take care of all types of circumventions of anti-dumping duty in line with best international practice.
- Likewise, Countervailing Duty Rules modified to enable investigation into the case of circumvention of countervailing duty and for enabling imposition of such duty.
- Revocation of Anti-Dumping duty on import of Purified Terephthalic Acid originating in or exported from South Korea, Thailand, China, Iran, Indonesia, Malaysia and Taiwan.

Electronic Duty Credit System:

- New concept of Electronic Duty Credit Ledger system introduced under Customs laws to enable duty credit (in lieu of duty remission) to be given in respect of exports or other such benefits in electronic form for its usage, transfer etc. Provision for duty recovery also being expanded to include such electronic credit of duties.

Preferential Tax Treatment under Trade Agreements

- New Scheme introduced for administering the verification of the country of origin in respect of goods imported under Preferential Tax Tariffs with different countries under Trade Agreements. The key features of the Scheme include:
- Obligation on importers to give declaration to the effect that (i) goods qualify as originating goods for preferential duty rates and to (ii) maintain information for fulfillment of conditions in the Trade Agreement relating to country of origin criteria, regional value content, product specific criteria.
- Mere submission of certificate of origin issued by an Issuing Authority shall not absolve the importer from exercising reasonable care.
- Customs Officers empowered to require importer to furnish additional information (consistent with the Trade Agreements) in cases where such officers have reasons to believe that country of origin criteria has not been met,
- Time bound verification mechanism (i.e. within 5 years from the date of claim of such preferential duty treatment by the importer) prescribed from exporting country in case of doubts/incomplete information.
- In cases of pending verification, preferential benefits to be suspended and clearance of goods would be permissible only on furnishing of security equivalent to the differential duty. In certain cases (i.e. where certificate of origin contains incomplete information or is altered without authentication/expired or where tariff entry is not eligible for preferential treatment), preferential tariff benefits may be denied straight away, even without conducting any verifications.
- Penal provisions introduced for confiscation of goods, where claims for import of goods under preferential tax rates have found to be in contravention of the provisions of the Act/ Rules.
- Customs officers empowered to restore preferential tax benefits upon satisfaction with the information furnished by the importer with regards to its eligibility for preferential tax benefits.

Safeguard Measures:

- Central Government empowered to apply safeguard measures in the event of any article imported into India in increased quantities and under conditions which could cause or threaten to cause serious injury to domestic industry.
    - Safeguard measures under the CTA have been expanded to include imposition of Safeguard Duty or application of a TRQ or any other measure that the Central Government may consider appropriate.

- TRQ cannot be fixed lower than the average level of imports in last three representative years, unless a different year is necessary to prevent any serious injury.
- Allocation of such TRQ to the supplying countries having substantial interest to be done by the Government.

➢ Powers of the Central Government to impose prohibitions and prevent injury to the economy of the country on account of uncontrolled imports/exports, now extended to other goods (in addition to gold or silver).

Tariff Amendments:

Particulars	BCD	
	Current (%)	**New (%)**
Walnuts, shelled	30%	100%
Other Chemical Products /Preparations of Chemical/Allied industries	10%	17.5%
Tableware, kitchenware, water filters (of a capacity not exceeding 40 litres) and other household articles, or Porcelain of China	10%	20%
Precious Metals - Coins	10%	12.5%
Air Circulators	7.5%	10%
Industrial Fan Blowers	7.5%	10%
Compressor of Refrigerators/Air-Conditioners	10%	12.5%
Commercial type combined refrigerator freezers, fitted with separate external doors, commercial freezer of chest type, not exceeding 800 litres capacity	7.5%	15%
Printed Circuit Boards	10%	20%
Furniture Goods	20%	25%
Stationery Items	10%	20%

Open Cell for Television Set	15%	0%
Solar cells not assembled or assembled in modules or made up in panels	20%	0%
Sports goods – List of items allowed duty free import up to 3% of FOB value of sports goods exported in the preceding financial year is being amended to include willow	Applicable Rate	Nil
Motors like single phase AC Motors, Stepper Motors, Wiper Motors etc.	7.5%	10%
Copper and articles thereof used in manufacturing of specified electronic items	Nil	Applicable Rate
Specified Chargers and Power Adapters	Applicable Rate	20%
Printed Circuit Board Assembly of cellular mobile phones (w.e.f. 1.4.20)	10%	20%
Fingerprint Readers/Scanners (for use in mobile phones)	Nil	15%
Vibrator/Ringer of Cellular Mobile Phones (w.e.f. 1.4.20)	Nil	10%
Display Panel and Touch Assembly of Cellular Mobile Phones (w.e.f. 1.10.20)	Nil	10%
Headphones and Earphones	Applicable Rate	15%
Footwear	25%	35%
Newsprint and light-weight coated paper	10%	5%

Excise

Tariff Amendments:

- Steep hike in NCCD on cigarettes and other tobacco products (except bidis).

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